Special Forces Pension Plan Board

1 9 9 0

ANNUAL

REPORT

Alberta
GOVERNMENT PENSION BOARDS

1203, Legislature Annex, 9718 - 107 Street, Edmonton, Alberta, Canada T5K 1E4 403/427-7105 Fax 403/427-1621

June 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Special Forces Pension Plan Board for the period January 1, 1990 to December 31, 1990. The report outlines the roles and responsibilities of the Special Forces Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

92-00112/

TABLE OF CONTENTS

	Page #
Introduction	1
Chairman's Report	2
The Board	4
Summary of Appeals	6
Advice	10
Appendices	
A. Excerpts from the Act	13
B. Summary of Statistics	17
C. Summary of Annual Seminar	19

INTRODUCTION

The calendar year 1990 is the fifth full year of operation of the Special Forces Pension Plan Board. This Board was established on November 1, 1985 under the Special Forces Pension Plan Act. At March 31, 1991 there were 2,615 active participants and 495 pensions in payment.

The main responsibilities of the Board are:

- to hear appeals of administrative decisions made on pensions by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members appointed by the Lieutenant Governor in Council representing employees, employers and the Government.

The roles of the Board are split between quasi-judicial and advisory. The quasi-judicial role of the Board is summarized in the section Summary of Appeals. A sample of appeal cases is provided for information. The advisory role is discussed in the section Advice.

CHAIRMAN'S REPORT

In preparing my comments for the year 1990, I pause to reflect on the Alberta Pension System over the years. For many years Alberta's Public Service Pension System was one of the leaders in Canada. Many other provinces looked to the Alberta System for leadership. This was evident when Alberta took the lead role in forming the Association of Canadian Public Service Pension Advisors in 1973. The main issue of that day was the importance of permitting public service employees to move from one level of government to another. For the most part, the goal of the first annual conference has been met. More recently, general portability of pensions has become one of the key issues in pension reform.

In addition, new issues have emerged. The financial risk of the existing system has grown to the point where it is questionable whether it can be managed on the strength of a government guarantee alone. In attempting to find new ways of managing this growing financial risk, we must consistently remind ourselves that pensions are no longer a reward for long and faithful service; it is now public policy that they be considered as deferred wages. A pension plan is a benefit offered to current employees to help them face old age knowing that they have a certain level of purchasing power. To ignore this would be "breaking faith" with public servants who over their careers have faithfully served the government and taxpayers. Any modification to the plan must be done in a way to preserve the integrity of the plan.

The pension system in general is in the midst of reform as sponsors and beneficiaries attempt to strike a balance between risk and promises. Various provincial jurisdictions have moved ahead with private and public sector reform - often the result of long processes of consultation and consensus building. The federal government is also showing an interest in pensions as witnessed by its "Tax Reform" package, which attempts to bring increased equity into the retirement system. Many of the recommendations summarized in this report attempt to respond to these issues within the context of the Special Forces Pension Plan.

Change, however, is a difficult process to initiate and manage. There is risk involved in change, but there is greater risk involved in not changing when it is required. Much like a frog in water who fails to respond to the water being heated until it is too late, failure to respond to a changing environment can have catastrophic results.

Apart from making specific recommendations, the Board has focused on the need for change and the process of bringing about change. The annual seminar brought together Board members, employees, employers, retired public servants and government representatives to address a basic question:

"How well do the current structures which deliver public sector pensions in Alberta serve its public servants and taxpayers, and is there a better way?"

The discussion was led by a panel which included Mr. Keith Ambachtsheer, a highly respected consultant in the industry, Mr. Al Reeve, the Executive Director of the Ontario Municipal Employees Retirement System (OMERS) and Mr. Al O'Brien, the Deputy Provincial Treasurer of Alberta. The perspectives presented by the speakers and participants created a greater sense of awareness among the various stakeholders. A consensus emerged that now is the time for change in a managed fashion.

With that agreement in mind, the Board sponsored a proposal to institute a formal process to decide how best to deliver public service pensions in the 1990's starting with the basic principles of governance and funding. The view was that such a process should consider

1. Understanding current pension delivery structures and alternatives to them.

2. Weighing the pros and cons of available choices.

3. Deciding the future direction and delivery structures to meet future needs.

Changes experienced in other jurisdictions have made available a wide choice of alternatives. Public sector pension systems now vary substantially across the country as each province developed different models. Weighing the pros and cons of each and deciding which model should be used requires a formal process. That process should be based firmly on consultation.

The Minister has indicated that changes to "funding, benefits and administrative provisions" in addition to changes required to comply with federal tax reform are being contemplated.

If adjustments are to be made to the plan, it is important that adequate time be committed for consultation with all parties involved. Changes must insure that the plan is viable and meets the needs of all beneficiaries for years to come. A clear plan must be established to deal with the accrued liabilities of the plan, funding of current service and benefits for members. The incidence of risk must be examined and all beneficiaries given adequate tools to manage the risk they are asked to bear. If these steps are not taken, then the value of the plan may be lost to those beneficiaries who need it the most.

THE BOARD

The Special Forces Pension Plan Board is a representative Board covering members, the employers and the Government. In addition to the Chairman, there are two members each representing the employee and employer groups and one member representing the government.

Members

J. E. Faries

Mr. Jerry Faries, Chairman of the Board, brings considerable background in pension policy and administration. He served over 15 years as Director of the Pension Administration. Mr. Faries was chairman and instructor for the Employee Benefit Administration Certificate program of the University of Alberta for a number of years. Currently he holds several senior positions on other boards and community organizations. His term of office expires on April 1, 1992.

A. F. (Chip) Collins

Mr. Collins, the government representative, is Vice-Chairman of the Board. He served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins brings to the Board extensive financial, administrative, and senior public service experience. His term of office expired on April 1, 1991.

M. P. Dungey

Mr. Michael Dungey joined the Calgary Police Service in 1971 and since that time his police work has been in many areas. Currently he is a staff sergeant on a leave of absence as President of the Calgary Police Association. Mr. Dungey has served as President of the Alberta Police Federation since May 1987. His term of office expires on April 1, 1992.

A. J. Habstritt

Mr. Allan Habstritt was appointed to the Board in April 1988. He holds a CMA designation and is a graduate of the Banff School of Advanced Management. Mr. Habstritt joined the City of Calgary in 1968 and has held his current position of City Treasurer/Director of Finance since 1986. He is a member of several other boards and is active in a number of financial planning associations. His term of office expires on April 1, 1992.

G. Hopman

Mr. Gerry Hopman held various posts with the City of Lethbridge since 1958 before assuming his current position as Director of Human Resources. He is a sessional instructor at the University of Lethbridge School of Management and Lethbridge Community College. Mr. Hopman also serves on the AUMA Labour Relations Advisory Committee, and is Chairman of the Human Resources Advisory Committee at the University of Lethbridge School of Management. His term of office expired on April 1, 1991.

N. E. Koch

Mr. Norman Koch served with the Royal Canadian Mounted Police from 1951 to 1955. He then joined the Edmonton City Police, and served till his retirement in 1983. Mr. Koch has been involved in police union activities, serving as President of the Edmonton Police Association and President of the Alberta Federation of Police Association. He is currently business manager of the Edmonton Police Association. His term of office expired on April 1, 1991.

SUMMARY OF APPEALS

Provisions

The Act provides that decisions of the Minister, which adversely affect plan members' rights under the pension plan in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

Provisions of the Act dealing with applications and appeals, Sections 10 and 35 respectively, are reproduced for ease of reference in Appendix A.

Parties aggrieved by a decision of the Board may appeal to the Court of Queen's Bench under Section 36 of the Act. Appeals to the Court of Queen's Bench may be made only on a question of law or jurisdiction. Such appeals must be made within 30 days.

Applications may also be made to the Board for extension of time limits under the reciprocal agreement with the Local Authorities Pension Plan. The following time limits apply under the agreement; that the break in contributory service must be no more than three months, and that application for transfer must be made within one year of commencing contributions with the new employer. The Board considers extenuating circumstances put forth by the applicant in making its decision.

Procedure

A Notice of Appeal form, prescribed by the Minister, is normally provided with adverse administrative decisions. This form must be completed and submitted in filing an appeal. It may also be used for applications for time limit extensions.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts should be gathered and how they should be presented. A copy of the "Pension Appeal Process" brochure is available from the Chairman's office.

Though hearings are conducted in an informal manner, the Board adheres to the principles of natural justice and the duty to be fair.

To ensure that appellants and applicants have an opportunity to present their cases, the Chairman is authorized to reimburse them for reasonable travel and subsistence expenses incurred in attending hearings.

Summary of Appeals and Applications (1990)

During 1990 the SFPP Board decided on 3 appeals and applications, the same number as in the previous year. The Board granted or varied 33% of the cases in both 1990 and 1989.

In 1990, 67% of the appellants and applicants or their representatives attended their hearings before the Board. This compares to 100% in 1989.

Summary of Appeals and Applications for 1990, by categories, with comparative figures for 1989 - SFPP Board

	1990			1989		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	0	-	-	0	-	-
Time Limit Extensions (Section 10)	1	33%	100%	0	-	-
Appeals (Section 35)	2	67%	0%	3	100%	33%
TOTAL	3	100%	33%	3	100%	33%

The following is intended to provide a cross-section of appeals and applications and is not an exhaustive description of cases heard by the Board.

Appeal #1 - Disability Pension

The issue under appeal was whether or not the appellant was eligible for a disability pension, under section 23 of the Special Forces Pension Plan Act, due to the loss of sense of smell.

The Minister's view was that it was not satisfied that the appellant was incapable of performing the duties of a police officer due to the loss of sense of smell.

The appellant's physician advised appellant that he would never regain his sense of smell and as a result this would directly affect his quality of life. Another physician advised that his health would improve if he moved to a drier climate. The appellant advised that prior to tendering his resignation, he spoke to an Edmonton Police

Association representative and a benefits counsellor of the City of Edmonton regarding his problem. After discussions with the above, he felt that his family's interests and his health would be better served by leaving the police department. He stated that he fully expected to receive a partial disability pension due to the loss of his sense of smell.

The Minister's representative stated that the Department's medical consultant queried whether or not there was a standard set on the sense of smell for police officers. He pointed out that the appellant had terminated employment voluntarily but alleged being forced out of his position and had named the City of Edmonton and the Edmonton Police Association in this respect.

The appeal was denied on the basis that the appellant had not satisfied the Board that he was incapable of effectively performing the regular duties of a police officer. The medical reports and evidence presented at the hearing did not support a disability pension.

Appeal #2 - Leave of Absence

The issue regarding this application was whether or not the applicant was materially at fault in missing the time limit to purchase a leave of absence.

The applicant joined the City of Calgary police force in 1965 and retired with 25 years of service. In 1977, he applied for a leave of absence without pay (3 months) to upgrade his education. He advised that he was instructed at the outset of the leave that premiums for employee benefits and union dues etc. would either have to be paid during the leave or immediately upon his return to work. He advised that he did pay all of his delinquent employee benefits. The applicant stated that he received correspondence from the pension authority of the City of Calgary advising that there was also a pension deficiency for several days in January 1977 and another from mid April to May 1977, a total of one month and six days. He stated that he was never told that he still owed pension contributions for the three month leave. He said that there was not further communication after the settlement of the one month and six days until his retirement. He advised that he truly believed that he had paid for the three month leave and requested the Board to allow him to purchase the 3-month leave of absence.

The Minister's representative stated that despite the fact that there may have been some confusion and misunderstanding at the time, it was clear that the applicant had not complied with the regulation. He raised the concern that the leave of absence occurred under the Local Authorities Pension Plan whereas it was now being established under the Special Forces Pension Plan. It was the Department's view that a leave taken under one plan had to be established under that particular Act and Regulation before it could be transferred to another plan.

Pursuant to section 10 of the Special Forces Pension Plan Act, the Board granted the extension of the time limit to allow the purchase of the leave on the basis that the applicant was not materially at fault in missing the time limit.

Appeal #3 - Pensionable Service

The issue raised was whether or not a period of reserve military service with the Department of National Defence (DND) should be considered as pensionable service under the Special Forces Pension Plan.

The appellant commenced employment with the City of Lethbridge and contributed to the Special Forces Pension Plan (SFPP) in March 1988. Shortly thereafter he applied to have a period of prior service (reserve service) recognized as pensionable service.

The appellant disagreed with Payroll and Pensions' argument that Canadian Armed Forces Primary Reserve service was not peacetime military service. Referring to his commission, he advised that he was appointed as an Officer in the Canadian Armed Forces; it did not indicate the reserve forces. He stated that he had been serving Canada since 1970 as a reserve force officer. He left the Forces in 1973 and rejoined in 1981 as a commissioned army officer and reached the rank of lieutenant. He advised that he was subject to all the rules, regulations and disciplinary action governing the armed forces, whether regular or reserve. He stated that he underwent the same training as a regular force officer although not as frequent. He was of the view that he met all the standards required of a regular force officer and therefore the service should be recognized.

The argument raised by the Minister's representative was that based on a previous Board ruling reserve forces service is not considered pensionable service under the SFPP. Secondly, only consecutive service of six months or more would be recognized; no casual service or work of less than 14 hours per week would be allowed. It was on this basis that the Department had denied the appeal.

The Board confirmed the Minister's decision on the bases that reserve forces service is not considered pensionable for purpose of the SFPP Act and that the service in question was casual and non-continuous.

ADVICE

The Board is empowered to "advise the Minister respecting any matters relating to the plan" (Section 9 of the Act). These include adequacy of contributions, benefits, actuarial assumptions, rates of interest etc. In total, this covers virtually all aspects of plan administration and fund management. In reviewing the advice offered by the Board, it is appropriate to measure it against some standard or test. The standard used to evaluate the management of a pension plan is the fiduciary standard. It can be argued that the Minister, as the administrator of the plan, is a fiduciary. It can also be argued that the Board through its statutory responsibility to advise the Minister should be judged on the same basis.

A fiduciary is someone who has acquired a position of trust on the condition that he will act in the best interests of another. For a pension plan, the duty of the fiduciary is to act in the best interests of the plan beneficiaries. In the case of the SFPP, the beneficiaries could be argued to include:

(1) The plan member as someone who contributes and expects to receive a benefit from the plan.

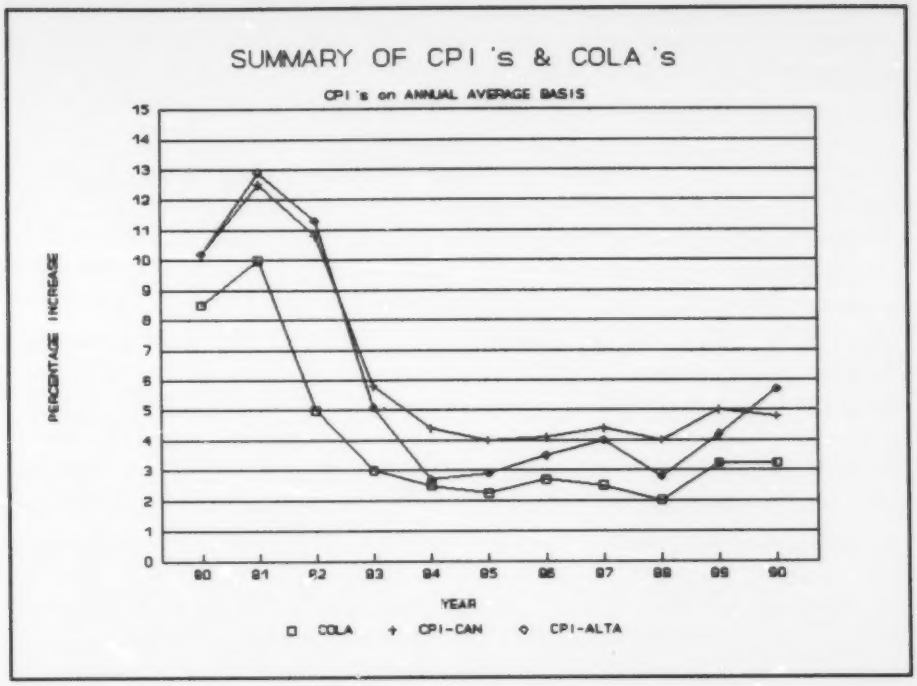
(2) The spouse, dependant or estate of the plan member, to the extent they are entitled to a benefit, contingent or vested, under the plan.

(3) The employer under the plan to the extent that employers contribute to the plan and rely on the plan to provide a pension benefit to their employees.

(4) The taxpayer, through his agent the provincial government, by virtue of the guarantee affixed to the benefit and therefore potential responsibility for any unfunded liability of the plan.

In evaluating the Board's advisory record on the basis of a fiduciary, one can look both at its specific recommendations and its leadership in a broader consultative role. The Board's recommendations are communicated in letters and reports to the Minister and over the past year included:

(1) A cost of living adjustment (COLA) formula based on 75% of the Alberta Consumer Price Index be encoded in legislation. The actual COLA granted has fallen short of that target level throughout most of the last 10 years.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1990, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 11-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 4.1%. Similarly, during the 5-year period 1986 through 1990 the average annual increases were as follows: Canada CPI - 4.5%, Alberta CPI - 4.0%, COLA's granted - 2.7%.

Encoding would not increase the current service cost of the plan since it is already included in the actuarial valuation. It would, however, strengthen the security of the benefit which participants now expect.

(2) A recommendation that the relevant sections of the SFPP Act and regulations be amended to allow the participation of non full time employees whose scheduled hours of work are not fewer than 14 hours per week or 728 hours per year and whose employment is on a continuous basis. Currently the Plan allows for only continuous full time employees to participate in the plan. This change would widen the scope of the plan to better reflect change in the labour market.

Over the years, the Board's recommendations have advocated greater accountability, more adequate funding, minimization of opportunities for selection against the fund, and recognition and management of the risks faced by all "beneficiaries".

In addition to this direct advice, the Board also engages in a broader consultative role. The Annual Seminar provides an opportunity for stakeholders in the various public sector "pension deals" to discuss issues in an open forum. This year's seminar focused on plan governance. As pre-work for the seminar, a discussion paper titled **"Plan Governance: A Framework For Discussion"** was circulated to all participants. Through a series of presentations by outside speakers, panel discussions and workshops, representatives of employees, employers, Treasury, and interested parties were able to speak directly on the issue of governance.

The proceedings of the seminar pointed to a consensus among the participants that governance was important and, given its linkages to all issues facing the plan, should be addressed. The executive summary, **"A Logical Next Step: Developing The Consultative Process"**, focused on what sort of process could be put in place to deal with the issue. Based on the consensus established at the seminar, a proposal was presented to the Minister early in 1991 that the governance and funding of the plan be reviewed. Such a review would allow for input from all "beneficiaries" and enable a consensus to be established regarding these two critical issues.

The Minister did respond and indicated that, in addition to tax reform, other changes related to "financing, benefit and administrative changes" were being considered. At the time of writing, details of the Minister's plan amendments and process for consultation were still forthcoming. It is expected that the proposed changes and anticipated consultations will guide Board activities in 1991.

APPENDIX A

Excerpts from the Act

The following excerpts of the Special Forces Pension Plan Act define the make-up and responsibilities of the Special Forces Pension Plan Board.

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Special Forces Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants and another from among persons nominated by the employers.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and Vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

(a) has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and

(b) shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.

(6) The Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

Appeal to the Court of Queen's Bench

36(1) A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.

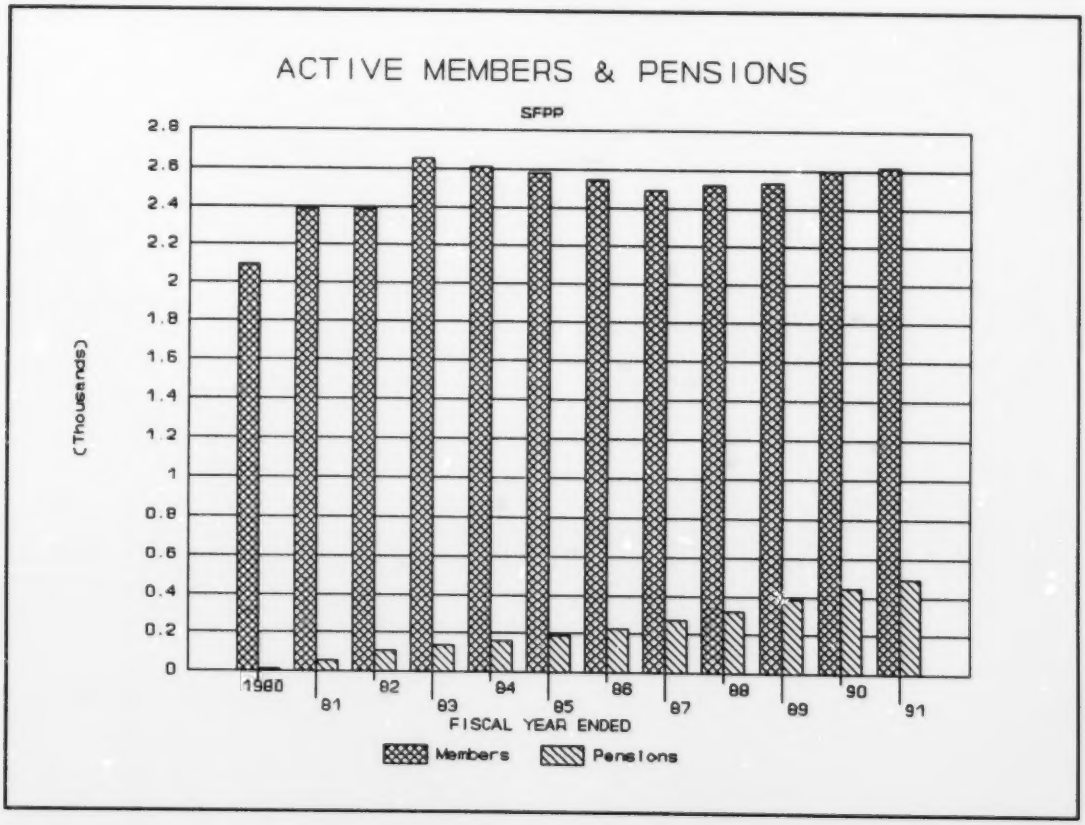
APPENDIX B

Summary of Plan Statistics

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Special Forces Pension Plan increased from 2,099 at March 31, 1980 to 2,615 as at March 31, 1991. The following graph shows the relative changes from 1980 through 1991:



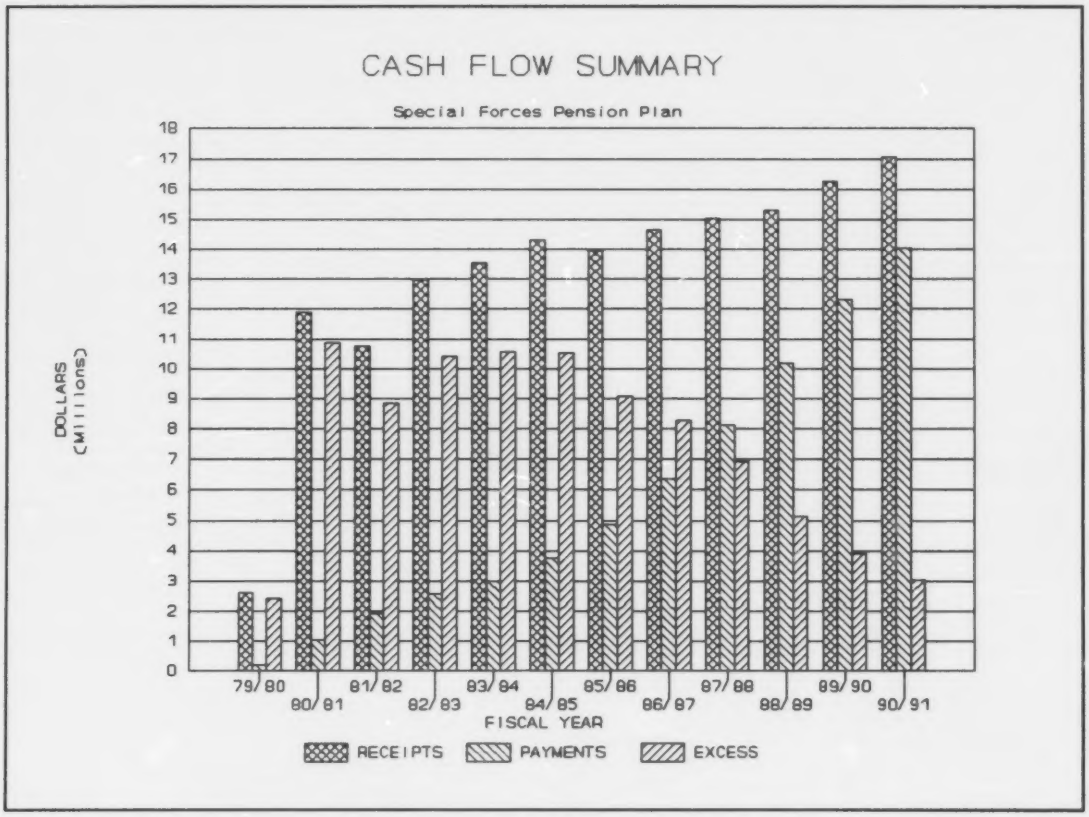
B. Pensions in Payment

The number of pensions in payment increased from 15 at March 31, 1980 to 495 as at March 31, 1991. The graph on the previous page illustrates the relative increases.

The average pension in payment was $1,240 per month on March 31, 1981 and increased to $2,369 per month for pensioners and $1,429 per month for surviving spouses on March 31, 1991.

C. Cash Flow Summary

The graph below reveals that receipts were $11,922,205 in fiscal year 1980/81 and increased to $17,081,000 in fiscal year 1990/91. Payments increased from $1,036,656 in fiscal year 1980/81 to $14,065,000 in fiscal year 1990/91.



APPENDIX C

Summary of the Annual Seminar

The Annual Seminar, an event hosted by the Alberta Government Pension Boards Office on behalf of all Government Pension Boards, was expanded this year and proved to be very successful. The Seminar focused on a single issue, plan governance. A pre-work discussion paper on plan governance was distributed before the seminar. This put the questions related to plan governance on the table before the seminar began and gave participants an opportunity to develop their thinking before hand. Three panellists were charged with responding to the questions raised by the pre-work.

The question of governance was initially explored by Mr. Keith Ambachtsheer, of Keith P. Ambachtsheer & Associates Inc., a highly respected consultant who was a principal advisor to the influential Ontario Task Force of the Investment of Public Sector Pension Funds. He brought a challenge to the group to look at the issues facing them with an open mind. He encouraged the interaction of all parties involved in pensions with each other to bring about an acceptable and stable system. Mr. Ambachtsheer left two questions with the group.

1. "Should Alberta institute a formal process to decide how to best deliver public service pensions in the 1990's and beyond, keeping in mind the interests of both Alberta public servants and taxpayers?

2. What kind of process is most likely to answer question 1?"

From the practical point of view of governance, Mr. A. W. Reeve, Executive Director of OMERS, presented the experience of a self-administered public sector plan. He pointed out that OMERS was an administrative board with a professional staff which is responsible for the total operation of the plan, from everyday administration to investments and investment policy. OMERS has grown from a 1 billion dollar fund in 1963 to an 13 billion dollar fund in the 1990's.

Mr. A. D. O'Brien, Deputy Provincial Treasurer, addressed the seminar on the fiscal framework of governance from the perspective of the Alberta Government. After reviewing the history of the system in Alberta he stated that the Government was very concerned about the growing liabilities and demands made for increased benefits. He concluded that "decision making power should be apportioned according to who bears the financial risk." He stated that "The Government is not willing to expose itself to increased risk without mechanisms to ensure that experience shortfalls and benefit improvements are covered."

In addition to the panel, there were presentations on the administration of the plan, investment management of the pension fund and the advisory/quasi-judicial roles of the Boards. Of particular interest was the discussion by Professor John M. Law of the University of Alberta on the quasi-judicial and fiduciary responsibilities assigned to the Pension Boards. He concluded that even if the Boards are not considered fiduciaries, they must exercise a fiduciary standard when providing advice to the Minister on matters relating to the plan. They must make their recommendations taking into consideration the continuing life of the plan, the beneficiaries of the plan and the taxpayers. With regards to the Boards' quasi-judicial role, Professor Law noted that the Courts were willing to acknowledge the Boards' expertise in dealing with pension disputes. Citing from recent court decisions, he stated that the Courts have concluded that a court "should not interfere with an interpretation made by bodies having the expertise...in an area within their jurisdiction unless the interpretation is not reasonable or is clearly wrong." [Alberta Court of Queen's Bench, November 6, 1990, The Queen v. Palsat and the Public Service Management Pension Plan Board, Unreported].

Workshops were used to facilitate discussion among participants. Each group was asked to comment on the issues raised by the speakers and respond with its view of what should be the next step. It was from this feedback that the proposal, noted in the section Advice, was drafted for a process for consultation and was forwarded to the Minister. It was the view of seminar participants that issues such as funding could not be dealt with in isolation of governance. Further, the issues of funding and governance should be dealt with. Finally, a process of consultation should be put in place to address the issues.